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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,682	06/28/2001	Thomas E. Falgout SR.	C496	4003
7590		11/18/2003	EXAMINER	
John D. Jeter		MISKA, VIT W		
1403 Teche Drive		ART UNIT		
St. Martinville, LA 70582		PAPER NUMBER		
		2841		

DATE MAILED: 11/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/892,682

Applicant(s)

FALGOUT

Examiner

Vit W. Miska

Art Unit

2841

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,6 and 10 is/are rejected.
- 7) ☒ Claim(s) 3,4,7-9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1, 2, 5, 6 and 11-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall. The reference discloses a run-time indicator for a machine comprising housing 5,6 attached to rotor shaft 11, timer 21-26, sensor means being a movable mass arrangement 17 for sensing rotation of rotor shaft 11. A power means for driving the timer is not disclosed, however, it is apparent that the timer is spring powered in view of the use of balance wheel 23. The timer described is associated with a speedometer; however, the patentee suggests that "any machine may be equipped for the purpose of indicating the elapsed time" (col. 1, lines 14-15). Thus, one of ordinary skill in the art would be taught to use the disclosed sensing and timing means for any motor having a rotor with an output shaft 11 for which the run time is to be measured.

2. Claims 10 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall in view of Swigert. The latter reference discloses a run time totalizer with a battery powered timer 23. One of ordinary skill in the art having both references would thus have a suggestion of providing a battery powered timer in the Hall reference, as an obvious alternative to a mechanical timer, as shown by Swigert.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 15 recites the limitation "the pendulum" in lines 2-3 . There is insufficient antecedent basis for this limitation in the claim.

***Allowable Subject Matter***

3. Claims 3,4 and 7-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vit W. Miska whose telephone number is 703-308-3096. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on 703-308-3121. The fax phone number for the organization where this application or proceeding is assigned is 703-308-7722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4900.

VM  
11/13/2003

  
**Vit Miska**  
**Primary Examiner**